

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WILD HORSE FREEDOM FEDERATION
14910 Wildwood Circle
Magnolia, Texas 77354

Plaintiff,

V.

BUREAU OF LAND MANAGEMENT
1849 C Street NW
Washington, DC 20240

Defendant.

Case No: 19-cv-1992

COMPLAINT

I. INTRODUCTION

1. Plaintiff Wild Horse Freedom Federation (“WHFF”) brings this action seeking declaratory and injunctive relief to redress violations of the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et. seq.*, by Defendant Bureau of Land Management (hereinafter “BLM”) in failing to provide WHFF with all non-exempt records responsive to its August 6, 2018, FOIA request to this federal agency, seeking copies of all emails, email attachments, and faxes sent to and from BLM employee Brian Steed, for the time period of July 30, 2018, through August 6, 2018.

II. JURISDICTION

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) (FOIA citizen suit provision) and 28 U.S.C. § 1331 (federal question).

III. VENUE

3. Venue in this Court is proper pursuant to 5 U.S.C. § 552(a)(4)(B).

IV. PARTIES

4. Plaintiff, Wild Horse Freedom Federation, is a non-profit organization that, at all times relevant herein, has been headquartered in Magnolia, Texas.

5. Defendant Bureau of Land Management is federal agency of the United States, and sub-component of the United States Department of the Interior, and as such, is an agency subject to the FOIA, pursuant to 5 U.S.C. § 552(f).

V. LEGAL FRAMEWORK OF FOIA

6. FOIA requires, *inter alia*, that all federal agencies must promptly provide copies of all non-exempt agency records to those persons who make a request for records that reasonably describes the nature of the records sought, and which conform with agency regulations and procedures in requesting such records. 5 U.S.C. § 552(a)(3)(A).

7. FOIA requires federal agencies to make a final determination on all FOIA requests that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such request, unless the agency expressly provides notice to the requester of “unusual circumstances” meriting additional time for

responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(I).

8. FOIA also requires federal agencies to make a final determination on FOIA administrative appeals that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal, unless the agency expressly provides notice to the requester of “unusual circumstances” meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(ii).

9. FOIA expressly provides that a person shall be deemed to have constructively exhausted their administrative remedies if the agency fails to comply with the applicable time limitations provided by 5 U.S.C. § 552(a)(6)(A)(I) - (ii). *See* 5 U.S.C. § 552(a)(6)(C).

10. FOIA provides that any person who has not been provided the records requested pursuant to FOIA, after exhausting their administrative remedies, may seek legal redress from the Federal District Court to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.

11. Under FOIA, the federal agency has the burden to sustain its actions. 5 U.S.C. § 552(a)(4)(B).

12. Pursuant to FOIA, this Court may assess attorney fees and litigation costs against the United States if the Plaintiff prevails in this action. 5 U.S.C. § 552(a)(4)(E).

VI. FACTUAL ALLEGATIONS

13. On or about August 6, 2018, WHFF sent a FOIA request to the Bureau of

Land Management (BLM), seeking copies of all emails, email attachments and faxes sent to and from Brian Steed, for the period of July 30, 2018, through the date of that record request (August 6, 2018).

14. On or about August 14, 2018, WHFF sent an email to BLM asking the agency for a FOIA acknowledgment letter and requesting the agency's assigned case number to its August 6, 2018, FOIA request .

15. On or about August 15, 2018, BLM sent email to WHFF indicating that it was looking into where the status of any acknowledgment letter for their August 6, 2018 FOIA request.

16. On or about August 15, 2018, BLM sent an email to WHFF indicating that BLM had received WHFF's August 6, 2018, FOIA request and had assigned it as FOIA control number 2018-01174.

17. On or about September 29, 2018, WHFF sent an email to BLM requesting an estimated completion date for WHFF's August 6, 2018, FOIA request.

18. On or about October 22, 2018, Plaintiff WHFF sent an email to BLM, once again requesting the agency provide an estimated date of completion for WHFF's August 6, 2018, FOIA request.

19. On or about November 22, 2018, WHFF sent another email to BLM, again requesting the agency provide an estimated date of completion for WHFF's August 6, 2018, FOIA request.

20. On or about December 21, 2018, WHFF once again sent a follow-up email to BLM, requesting the agency provide an estimated date of completion for WHFF's August 6, 2018, FOIA request.

21. On or about January 27, 2019, WHFF sent an email to BLM, clarifying its August 6, 2018, FOIA request by reiterating that the time frame of the request was from July 30, 2018 through August 6, 2018.

22. On or about April 15, 2019, Plaintiff Wild Horse Freedom Federation sent a follow-up email to BLM, once again requesting the agency provide an estimated date of completion for WHFF's August 15, 2018, FOIA request.

23. On or about June 12, 2018, WHFF sent additional email to BLM, requesting the agency provide an estimated date of completion for WHFF's August 6, 2018, FOIA request.

24. On or about June 27, 2019, BLM sent a response email to WHFF, indicating that this record request "should be completed in the next 30 - 60 business days."

25. As of the date of the filing of this action Plaintiff WHFF has not received any agency decision, nor any of the records which it requested in its August 6, 2018, FOIA request to the Bureau of Land Management.

VII. CLAIMS FOR RELIEF

26. WHFF realleges, as if fully set forth herein, paragraphs 1-25 previously set forth herein.

27. Defendant BLM has violated FOIA by failing to provide WHFF with all non-exempt responsive records for its August 6, 2018, FOIA request.

28. By failing to provide WHFF with all non-exempt responsive record to its August 6, 2018, FOIA request, Defendant BLM has denied WHFF's right to this information as provided by the Freedom of Information Act.

29. BLM has violated FOIA by failing to perform an adequate search reasonably calculated to locate all responsive records to WHFF's August 6, 2018, FOIA request.

30. By failing to perform an adequate search reasonably calculated to locate all responsive records to WHFF's August 6, 2018, FOIA request, Defendant BLM has denied WHFF's right to this information as provided by law under the FOIA.

31. Unless enjoined by this Court, Defendant BLM will continue to violate WHFF's legal rights to be provided with copies of the records which it has requested in its FOIA request described in paragraph 13 above.

32. WHFF is directly and adversely affected and aggrieved by BLM's failure to provide responsive records to its August 6, 2018, FOIA request described above.

33. WHFF has been required to expend costs and to obtain the services of a law firm, consisting of attorneys, law clerks, and legal assistants, to prosecute this action.

34. WHFF is entitled to reasonable costs of litigation, including attorney fees pursuant to FOIA 5 U.S.C. § 552(a)(4)(E).

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter Judgment for WHFF, providing the following relief:

1. Declare Defendant BLM has violated FOIA by failing to provide WHFF with all non-exempt records responsive to its August 6, 2018, FOIA request.
2. Declare Defendant BLM has violated FOIA by failing to complete an adequate search for records responsive to WHFF's August 6, 2018, FOIA request.
3. Direct by injunction that Defendant BLM perform an adequate search for records responsive to its August 6, 2018, FOIA request, and provide WHFF with all non-exempt responsive records to WHFF's August 6, 2018, FOIA request.
4. Grant WHFF's costs of litigation, including reasonable attorney fees, as provided by FOIA, 5 U.S.C. § 552(a)(4)(E); and,
5. Provide such other relief as the Court deems just and proper.

DATED: This 3rd day of July, 2019.

Respectfully submitted,

/s/
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